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**Death Row May Feel Cuts' Impact**

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*• Funding plummets for center that handles inmates' court appeals. Loss of defense lawyers could delay executions.*

Some inmates on Georgia's **death** row may soon find themselves without lawyers to represent them, potentially halting their appeals and delaying their executions.

Oddly enough, the steep decline in the real estate market and historically low interest rates are the primary causes.

This legislative session, the Georgia Appellate Practice and Educational Resource Center will ask for a boost in its funding to keep it from having to lay off lawyers and investigators. The 12-person nonprofit, with spartan offices in the basement of an Inman Park pizza restaurant, represents or assists with the representation of most of the roughly 90 inmates on Georgia's **death** row.

"If the resource center loses more employees, it will have to take fewer cases, and there will be some inmates who are unrepresented," said Atlanta lawyer Rob Remar, chairman of the center's board. "The likely outcome is that the system will grind to a halt for those people who don't have lawyers."

State Rep. Jay Powell, who heads a key House budget subcommittee, said he is aware of the problem.

"My feeling is we can be penny wise or pound foolish, because if we don't pay enough on the front end, we'll pay more in the back end," said Powell, a Republican from Camilla. "If appeals aren't properly handled, the cases drag on."

Powell said it costs at least $18,000 a year to house an inmate on **death** row, so if a case gets delayed five years because there are not enough lawyers to handle appeals, it will cost the state $90,000. "It doesn't make sense not to take care of this on the front end," he said.

For years, the Georgia Bar Foundation has provided grant money to the resource center and other programs, such as Atlanta Legal Aid and Georgia Legal Services. The foundation gets its funding from interest-bearing trust accounts set up by lawyers to handle real estate transactions and other deals.

Because of the economic downturn, the foundation's collections have plummeted from more than $900,000 a month in 2007 to about $60,000 a month last year. Three years ago, the foundation gave more than $750,000 to the resource center, and that dropped to $186,917 last year. This year, the foundation was unable to provide any funding.

The Legislature had been providing $800,000 to the resource center annually, but, faced with a budget crisis beginning in 2008, it cut the center's funding by more than $200,000. In the upcoming session, the center will ask lawmakers to restore its funding to the prior $800,000 level.

Brian Kammer, executive director of the resource center, said he has spent time writing grant proposals for additional funding in addition to his work preparing and litigating appeals for **death** row clients. Last year, the Vital Projects Fund, based in New York, awarded the resource center a $50,000 grant.

"We've also been asking for donations," Kammer said. "They're trickling in, but it's not been enough."

The resource center's seven lawyers and four investigators take over representation after a **death** row inmate's direct appeals are completed. They file a petition for *habeas corpus*, which is a civil lawsuit that challenges the legality of an inmate's **conviction** and **death** sentence. The petitions can uncover errors made by trial judges, inadequate work by defense attorneys and misconduct by jurors or the prosecution team.

The work is time-consuming and expensive, often requiring experts in the fields of mental health or forensic science who bill at $250 to $300 an hour.

Georgia is the only state in the country that does not guarantee counsel for **death** row inmates pursuing their state *habeas corpus* appeals, the result of a 1999 ruling by the Georgia Supreme Court in a case involving Exzavious Gibson.

Gibson, sentenced to **death** for killing an Eastman grocer during a robbery, became the first capital inmate in the modern history of the **death** **penalty** to proceed involuntarily through a state *habeas corpus* proceeding without a lawyer to represent him. Even though the state Supreme Court upheld it, a federal judge in Augusta would later have none of it; he sent Gibson's case back to state court, allowing his claims to proceed. By that time, Gibson had lawyers to represent him.

Gibson was removed from **death** row in 2005, when the U.S. Supreme Court declared it was unconstitutional to execute killers who were under 18 at the time of their crime. Gibson was 17 when he committed his capital offense.

Kammer predicted federal judges will continue to frown on cases--like what happened in Gibson's--if a **death** row inmate is not provided a lawyer during a critical phase of an appeal.

It has been a tough 15 months for the resource center staff, Kammer said, starting with the attempted suicide by client Brandon Rhode just hours before his scheduled execution in September 2010. Rhode slashed his neck and arms with a razor blade he had concealed from guards.

During Rhode's final appeals, he attended one hearing strapped to a chair and heavily bandaged. He was executed the following week. Over the next year, executions were carried out against four more inmates, including the Sept. 21 execution of Troy Anthony Davis, whose innocence claims attracted international attention despite his **conviction** in the killing of a Savannah police officer.

Davis' execution was delayed when the U.S. Supreme Court took several hours before announcing it was not going to hear his final appeal. Kammer took the call from the court after 10 p.m. and then called Davis to tell him the news.

After the two men prayed, Kammer said, he told Davis, "You changed the world."

"I'd really like to stay in the world," Davis replied. He was executed less than an hour later, at 11:08 p.m.

Kammer and his colleagues left the resource center office well after midnight, drained from the events of the day and exhausted from litigating Davis' final appeals.

Kammer was on his way back to work just a few hours later the next morning when he received news that an execution warrant had just been signed for another resource center client, a man sentenced to **death** for raping and killing an Albany woman in 1994.

Days later, however, a judge postponed the execution to give resource center lawyers the chance to determine whether DNA testing could be conducted on available biological evidence. The case is still pending.

"We work hard to make the process fair and reliable," Kammer said. "We work hard to protect the mentally ill and mentally disabled, to make sure some folks sentenced to **death** are not wrongly condemned."

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**Summary:**

 "Some inmates on Georgia's death row may soon find themselves without lawyers to represent them, potentially halting their appeals and delaying their executions....This legislative session [2012], the Georgia Appellate Practice and Educational Resource Center will ask for a boost in its funding to keep it from having to lay off lawyers and investigators....The resource center's seven lawyers and four investigators take over representation after a death row inmate's direct appeals are completed....Georgia is the only state in the country that does not guarantee counsel for death row inmates pursuing their state *habeas corpus* appeals" ***(Atlanta Journal-Constitution)***. This article examines funding issues for legal services for Georgia' death row inmates.

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